

Before the  
UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Jordanville Post Office  
Jordanville, New York

Docket No. A2011-84

REPLY BRIEF OF THE PUBLIC REPRESENTATIVE

(December 1, 2011)

I. INTRODUCTION AND BACKGROUND

On September 22, 2011, the Commission docketed the petition to review the closing of the Jordanville Post Office.<sup>1</sup> On September 26, 2011, the Commission issued an order instituting the current review proceedings, appointing a Public Representative, and establishing a procedural schedule.<sup>2</sup> Thereafter, on October 2, 2011, the Postal Service filed an electronic version of the administrative record concerning its Final Determination, Postal Service Docket Number 1368558-13361.<sup>3</sup> Another petition appealing the closing was filed at the Commission on October 18, 2011 consisting of a petition signed by 25 customers of the Jordanville, New York ZIP Code area.

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<sup>1</sup> Letter dated September 13, 2011 to the Commission from Linda Roberts (Petition).

<sup>2</sup> Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 26, 2011 (Order No. 874).

<sup>3</sup> The Postal Service filed an erratum to the record on November 9, 2011 to include numbering on the documents to facilitate citation to the record. United States Postal Service Notice of Filing Modification to Administrative Record [Erratum], November 9, 2011.

The Petitioners did not file Participant Statements in lieu of formal legal briefs or any other pleadings in this proceeding. The Postal Service filed comments supporting its closure determination on November 16, 2011 in lieu of a legal brief.<sup>4</sup>

## II. STATEMENT OF FACTS

The Jordanville Post Office is described by the Postal Service in its Final Determination as an EAS-13 level post office in Jordanville, New York, located in Herkimer County. AR, Item No. 47 (hereafter FD) at 2. Before closing, the Jordanville Post Office provides service to 59 post office box customers and 217 delivery customers who engaged in an average of 29 daily window transactions during the survey period. FD at 2.

On February 22, 2011, the Manager, Post Office Operations, requested permission to investigate the possible closure of the Jordanville Post Office. AR, Item No. 1. The request was granted. *Id.*

On April 18, 2011, the Postal Service notified customers of the Jordanville Post Office of a "possible change in the way your postal service is provided." FD at 2. As described in the notice, customers were given the option of receiving rural route delivery service administered from the Richfield Springs, New York Post Office located 5.16 miles away.<sup>5</sup> AR, Item No. 21. Included was a questionnaire to be completed and returned by May 4, 2011, *Id.* In addition, customers were invited to attend a public meeting on May 4, 2011, at which Postal Service representatives would be available to answer questions and provide information about postal service. *Id.*

Questionnaires were distributed by the Postal Service to 61 Jordanville Post Office customers and other questionnaires were available over-the-counter at the Jordanville Post Office: 88 were completed and returned: 10 responded favorably to the

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<sup>4</sup> United States Postal Service Comments Regarding Appeal, November 16, 2011 (Postal Service Comments).

<sup>5</sup> According to Google MapQuest, the Jordanville and Richfield Springs post offices are 8 minutes driving time and 5.15 miles apart.

proposal; 17 expressed opposition or concern; and 61 expressed no opinion. FD at 2. The meeting was held on May 4, 2011, as scheduled, with 33 customers in attendance. *Id.*

On May 17, 2011, a formal proposal to close the Jordanville Post Office was forwarded to that post office for posting for a period of sixty days. *Id.* The Proposal was posted in the Jordanville Post Office, and although the Administrative Record does not include a copy of the Proposal that was posted at the Richfield Springs Post Office, the Final Determination indicates a Proposal was posted at the Richfield Springs Post Office. *Id.* The Proposal in the Administrative Record does not include circular date stamps. AR, Item No. 41. According to the Final Determination, the Proposal was removed on July 18, 2011. *Id.* The Proposal included an invitation to file comments. *Id.* 29 comments were received during the posting period that ended July 16, 2011. *Id.*; FD at 2, 6. That proposal was transmitted to the Vice President for Delivery and Post Office Operations on July 21, 2011. AR, Item No. 45. Postal Service headquarters acknowledged receipt of the transmittal on August 14, 2011. AR, Item No. 46.

On September 7, 2011, the Final Determination to close the Jordanville Post Office was approved. FD at 9. The Final Determination considered and responded to various concerns expressed by postal customers at the May 4, 2011 public meeting. AR, Item No. 25. The decision was based upon a review of the statutorily required factors under 39 U.S.C. 404(d) and the determination that regular and effective service will be maintained upon closing the Jordanville Post Office, that there will be a savings of \$48,071 annually, and that the advantages outweigh the disadvantages of closing that office. FD at 2, 7.

### III. POSITIONS OF THE PARTIES

#### A. The Petitioners

Petitioner Roberts presents three arguments in opposition to the closing of the Jordanville Post Office: (1) that the Jordanville Post Office is vital to the community; (2)

the closing will affect many people in the community who will be required to drive 5 miles in all types of weather; and (2) travelling to another post office for services the carrier cannot provide will incur additional gasoline costs. The Citizens petition claims the decision will cause undue hardships for the people in their rural area. Citizens Petition at 1.

#### B. The Postal Service

On November 15, 2011, the Postal Service filed comments in lieu of the answering brief permitted by Order No. 874. In that filing, the Postal Service supports its decision to close the Jordanville Post Office on the grounds that it followed the proper procedures and complied with the requirements of 39 U.S.C. 404(d)(2)(A) by considering the effect on postal services, the effect on the community, the economic savings, and the effect on employees. Postal Service Comments at 5-10. It characterizes the issues raised by the appeal and the administrative record as raising two issues: the effect on postal services and the impact upon the Jordanville community. Postal Service Comments at 1. The Postal Service asserts these two matters were considered in the Final Determination.

### IV. STANDARD OF REVIEW AND APPLICABLE LAW

#### A. Standard of Review

The Commission's authority to review post office closings provided by 39 U.S.C. § 404(d)(5). That section requires that the Postal Service's determination be reviewed on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds are: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does

not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.<sup>6</sup>

B. The Law Governing Postal Service Determinations

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. § 404 to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. § 404(d)(2)(A).

In addition, the Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. § 404(d)(3). Finally, the Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available. 39 U.S.C. § 404(d)(4).

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioners and the Petition submitted by customers of the Jordanville Post Office, and the Postal Service's Comments, the Public Representative concludes that the Postal Service has followed applicable procedures, that the decision to close the Jordanville Post Office is not arbitrary or capricious, and that the Postal Service's decision is supported by substantial evidence.

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<sup>6</sup> Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal. The petitioner in this proceeding did not request suspension of the closure of the Jordanville Post Office.

*Notice requirements.* The Postal Service has met the notice requirements. Customers were notified of the potential closing, questionnaires were distributed for comments prior to the community meeting. Comments were collected and analyzed. Responses to the comments were compiled and made available. The Postal Service posted the Proposal to close the Jordanville post office for 60 days and provided further opportunity to comment on the Proposal. The Final Determination was posted in the Jordanville and Richfield Springs post offices for thirty days.

*Effect on service.* The Postal Service considered the impact upon service by closing the Jordanville Post Office. FD at 2. In lieu of Post Office Boxes at the Jordanville Post Office, customers will have the opportunity to receive rural route home delivery service. They can maintain their town name and ZIP Code in their address. The rural route carrier can provide most of the services currently available at the Jordanville Post Office. The Richfield Springs Post Office located 5 miles away provides all of the retail services available at the Jordanville Post Office. Post Office Boxes are available for rent at the Richfield Springs Post Office for customers who choose not to avail themselves of home delivery service. FD at 5.

*Effect on community.* The Postal Service's Final Determination considered the effect of closing the Jordanville Post Office upon the community and recognized the substantial role often played by post offices in community affairs. Petitioner Roberts raised the issue of the vital role played by the Jordanville Post Office in the community. After closing, regular and effective service will continue to be provided to the community by carrier services. Residents indicated in responses to questionnaires they would continue using the businesses located in Jordanville even if the Jordanville Post Office is closed. FD at 7. The Administrative Record indicates there is no projected growth in population or households for the community. AR, Item No. 16. However, revenue at the Jordanville Post Office over the last three years has grown consistently each year from \$31,647 in FY 2008 for FY 2008 to \$34,667 in FY 2009 and \$37,162 in FY 2010. FD at 2;; AR, Item No. 18. That was a growth rate of about 10 percent between FY

2008 and FY 2009 and about 7 percent between FY2009 and FY2010. The growth in revenue is unexplained on the record.

*Effect on employees.* The Postal Service considered the effect on employees. The officer-in-charge will either return to her position at a nearby office or may be separated. No other employee will be affected. FD at 7.

*Economic savings.* The Postal Service also considered the economic savings to the Postal Service. Using the Postal Service's formula, closing the Jordanville Post Office would save the expense of a postmaster's salary plus benefits and facility rent, but would incur an annual cost of replacement service for a net savings of \$48,071. *Id.* Although the Postal Service has considered the economic effect, the estimates for salary and benefits have not been demonstrated to reflect the actual savings to be generated in closing the Jordanville Post Office. Not only is the OIC's compensation for operating the post office substantially less than a postmaster's salary and benefits, but if the OIC returns to work in another facility, the savings of the OIC's compensation has not been demonstrated. Alternatively, the Postal Service states, without further explanation, that the employee may be separated from the Postal Service. *Id.* The Commission has recently addressed this issue and concluded that the Postal Service should adjust its estimating procedures in such cases. It stated:

Without any assurance that the OIC will be terminated, the salary and related benefits identified in the Final Determination as economic savings might not be realized. In future cases, the Postal Service should either confirm that salary and benefit savings will be realized, or provide a more complete discussion of why such salary and benefit costs should be considered savings.<sup>7</sup>

If an adjustment in the employee's salary estimate is the only change to the economic savings study, the savings from the likely lower employee compensation plus

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<sup>7</sup> Docket No. A2011-39, Ulman Post Office, Ulman Missouri (Order No.993), November 22, 2011 at 8; see also, Docket No. A2011-42, Rex Post Office, Rex, North Carolina (Order No. 994), November 22, 2011 at 8.

the rent of \$6,600 would, nevertheless, continue to more than offset the \$7,098 cost of replacement service, again yielding a net savings.

However, this economic study is flawed in two other respects. It does not consider or address the question of whether there will be lost revenue from the 59 Post Office Boxes rented. FD at 2; AR, Item No. 8 (notes 60 Post Office Boxes rented). Loss of an unknown amount of Post Office Box revenue might entirely offset the savings otherwise generated. Moreover, the study does not take into account any one-time costs of decommissioning the Jordanville Post Office. The Commission has previously stated that the Postal Service should take one-time costs into account. Taken together, these deficiencies raise questions about the accuracy of the study, although it appears that in all probability there will be some net savings from closing the Jordanville Post Office.

## VI. CONCLUSION

For the reasons set forth above, the decision of the Postal Service to close the Jordanville Post Office should be affirmed. .

Respectfully Submitted,

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